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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/603,355	06/26/2000	Guo Qiang Wang	71493-609CIP	3258
7380	7590	04/15/2004	EXAMINER	
SMART & BIGGAR/FETHERSTONHAUGH & CO. P.O. BOX 2999, STATION D 55 METCALFE STREET OTTAWA, ON K1P5Y6 CANADA			SAM PHIRIN	
			ART UNIT	PAPER NUMBER
			2661	S
DATE MAILED: 04/15/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/603,355	WANG ET AL.	
	Examiner	Art Unit	
	Phirin Sam	2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 June 2000.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 15-21 and 37-45 is/are allowed.
- 6) Claim(s) 1,2,8-14,22,29,30,35,36 and 46 is/are rejected.
- 7) Claim(s) 3-7,23-28,31-34 and 47-53 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

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- 1) Notice of References Cited (PTO-892)
 - 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 - 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2.
 - 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
 - 5) Notice of Informal Patent Application (PTO-152)
 - 6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1, 2, 8-14, 22, 29, 30, 35, 36, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tounai et al (U.S. Patent 5,870,382) in view of Whiting et al (U.S. Patent 6,456,626).

Tounai et al discloses the invention (claims 1, 2, 8-14, 22, 29, 30, 35, 36, and 46) as claimed including a method of routing packets intended to be transmitted across a network link protected by a protecting path defined by a closed loop of nodes and links through the network, the method comprising the steps of:

(a) determining whether the protected link has failed (see Fig. 1, element 5, col. 3, lines 42-59, 64-67, and col. 4, lines 1-2).

- (b) if the protected link has not failed, sending the packets across the protected link (see Fig. 1, col. 5, lines 59-67, and col. 6, lines 1-51).

Tounai et al does not disclose encapsulating the packets within tunnel packets and sending the tunnel packets along the protection path. However, Whiting et al discloses encapsulating the packets within tunnel packets and sending the tunnel packets along the protection path (see Fig. 8, col. 6, lines 48-62). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine encapsulating the packets within tunnel packets teaching by Whiting et al with Tounai et al. The motivation for doing so would have been to provide to prevent the loss of data. Therefore, it would have been obvious to combine B and A to obtain the invention as specified in the claims 1, 2, 8-14, 22, 29, 30, 35, 36, and 46.

Allowable Subject Matter

4. Claims 15-21 and 37-45 are allowed.
5. Claims 3-7, 23-28, 31-34, and 47-53 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(1) Kajitani et al (U.S. Patent 6,643,254) disclose rerouting method for a PVC route on an ATM network and a network management system using the rerouting method.

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(2) Chao et al (U.S. Patent 6,549,513) disclose method and apparatus for fast distributed restoration of a communication network.

(3) Baniewicz et al (U.S. Patent 6,512,740) disclose telecommunications network distributed restoration method and system.

(4) Bentall et al (U.S. Patent 6,163,525) disclose network restoration.

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Phirin Sam whose telephone number is (703) 308 - 9294.

The Examiner can normally be reached on Monday - Friday from 8:30AM - 4:00PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Douglas W. Olms can be reached at (703) 305 - 4703. The fax number for the organization where this application or proceeding is assigned is (703) 872 - 9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217 - 9197 (toll-free).

Respectfully submitted,

Date: April 13, 2004



Phirin Sam
Patent Primary Examiner